S: Hobley G-S (ca. 1910) 1913 FL11 Loan FL11
Bantu Kavirondo FL4

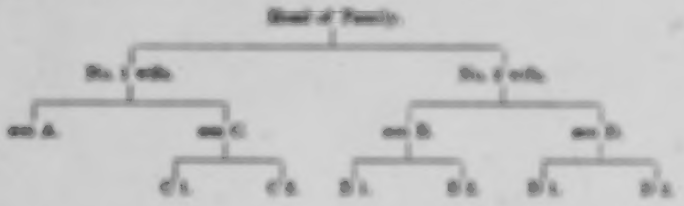
THE LOSS CUSTOM.

In the Rev. Johnston's recent work on the Uganda Protectorate, reference has been made to the presence of a vendetta custom among the Kavirondo, to which, if a man is killed, the men of the deceased endeavour to trust down the murderer, and if they fail, the onus again carry on the feud.

This custom doubtless accounted for much petty bloodshed in times past. I am glad to say, however, that it is dying out now to a great extent, and our murder no longer leads to a succession of crimes.

The old blood feuds are, however, still recognized, and a man may not eat with a person with whom his branch of the family has a blood feud, or, it is believed, he will surely die within 24 hours.

To make it clear how this curse operates, I append an example in which a man kills his brother by a different mother.



The feud commences by A killing B. After this D will not, nor does, eat with A or C. In the next generation B 1, B 2 and D 1, D 2 cannot eat with A or C, neither can they eat with C 1 and C 2, although they are only nephews of the murderer, but they belong to that branch of the family through their common mother.

Curiously enough, although this custom is hinged on the female line, it only applies to the males of the family; the females can eat with the descendants of the injured line without evil effects.

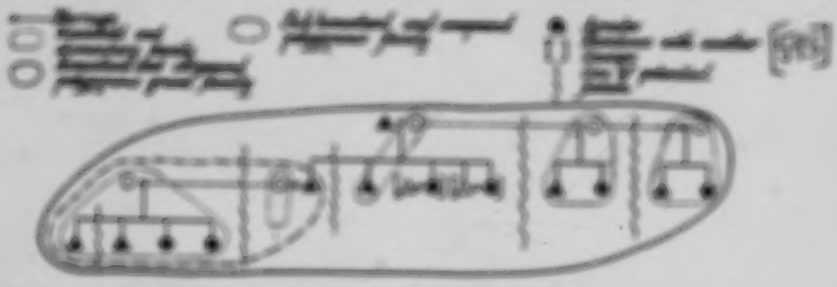
The men are desperately afraid of unconsciously infringing the tabu; if a member of a murderous branch has cooked his food in a certain pot, that pot is forbid for any representative of the other branch; thus when a member of each are travelling together and the cooking pots are few, the situation becomes rather difficult at times and numerous disputes arise. Everything connected with this custom is called "*Isiru*" by the Bantu Kavirondo.

The custom has been adopted in a half-hearted manner by the Nilotic Ja-Luo, but it is not carried out in such a persistent manner, and rarely goes so far as the defilement of the cooking utensils above described.

Among the Bantu people of the Kakamega Tiriki, this *Isiru* custom is often indirectly taken advantage of in rather a cunning way as a means of obtaining revenge for their private grievances. Suppose a murder of a certain clan has

FF: Southall B-6 (1948-1947) 1952 FF3.11 Luo FF3.11

with one maximal lineage, which includes the lineage segments whose territories are marked on the map (Fig. 3) as the locations of Kamchoonyo, Kanjwal, Kakwath, Kanyamwa, Kamago, and Kadero.[1] These lineages all claim patrilineal descent by a recognized genealogy from Awando the wife of Jook, an ancestor from nine to twelve generations of seniors from elders still alive. This is an unusually large exogamous group and has no parallel even among the Luo, with their very wide reckoning of marriage ban. Its present population is about 10,000, including a small percentage of settlers (*jokel*) from other lineages. The ban on intermarriage is still observed throughout this group except for the *jokel*. Its major segments would



probably have separated from one another completely and ceased to claim effective common descent, if it had not been for the machinery of European administration to crystallize the relations of maximal lineages at about the stage they had reached when outside control was first imposed over half a century ago. Since that time the population of the group has probably doubled to much its present size. It is regarded by all the Luo as one of the most important and most authentically Luo groups among them. Since, as the map shows, the territories of its major segments are not contiguous, but form chain segment blocks, their day-to-day activities have become similarly divided; I deal chiefly with the block formed by the locations of Kamchoonyo and Kanjwal, which have a population of 30,000. The lineages of both these locations claim agnatic descent from Kachoonyo, and will be referred to together as Kamchoonyo. (They were, in fact, called East and West Kamchoonyo by the British administration until recently.) Kamchoonyo people can intermarry with the lineages of the surrounding locations—Nyakach, Gem, Kanyada, and Kagan (see map, Fig. 3)—as well as with the groups of *jokel* who have been permitted by them to settle within their territory.[2]

Cases of murder between Kamchoonyo and other lineages would—before the British administration—have constituted blood-feuds between them in which the

[1] Wuoyo is also included, but these people separated from the Luo and were incorporated into the Nyore Kisii.

[2] There are only three considerable groups of Kamchoonyo which are not agnatic descendants of Kachoonyo: Kamadhiang' (Fig. 3), Wagore (Ywai), and Kamwala (Lwo), see Fig. 1. Tradition ascribes for them an descended either from wanderers who became dependants of Kamchoonyo families or from orphan sisters-sons discovered and reared by them. In either case they married Kamchoonyo girls, so it almost inevitable in a system of lineated exogamous lineages. They therefore rank as sister's son's lineages to Kamchoonyo.

19: Southall E.9 (1946–1947) 1952 PZ.11 Lan PZ.11

lineage of the murdered man endeavoured to kill a member of the murderer's lineage in revenge. But the family of the murderer could forestall this process by offering a girl or twelve head of cattle in compensation. If wilful murder occurs between segments within the same maximal lineage, fighting may again occur and a member of the murderer's segment may be killed in revenge. Here it is impossible for a girl of the group to be offered as compensation since she would be of the same maximal lineage and exogamous group as the murdered man, and could not be married by any kinsman of his. But the senior elder recognized by both segments calls a council representative of both, and the murderer, if judged guilty, is supposed to be exiled. Where a man kills a close relative, belonging to his own minimal clan A segment of the maximal lineage, *a yo nuoro—a cruel offence*.[1] The murderer must leave his relatives and stay by the graves until *chulo* (the first mourning period) is finished. He must cohabit with the dead man's wife, if the latter leaves no children to her husband, so that she may bear a child to be named after the dead and to guard his homestead.[2]

The level of groups between which marriage can take place thus corresponds to the level at which general exhortations must be done prescribed between kinsmen, and the groups with which marriage is possible tend to be those between which hostility in the usual attitude. The Luo recognize this correlation, and regard *ode* (in-laws) and *nenge* (enemies) as almost interchangeable terms.

The normal form of marriage is negotiated by go-betweens on behalf of bride and bridegroom with their respective families. A number of cattle has to be made to the bride's family, the normal number being twelve. When the two families are agreed as to the suitability of the match, the groom arranges for a party of his friends to drag the bride from her home. The bride is expected to make a show of resistance and weeping, but it is appointed that the dragging must not take place when the bride's parents are absent from the homestead. After the bride is thus brought to the *simbo* of the groom, she is better delivered her in the presence of married men and women witnesses; the relatives of her virginity are placed on pinnacles and paraded in triumph to the bride's home the next day and a feast is held there. If the bride fails to prove her virginity in this way no feast is held, and one head of cattle less is paid to her family. The legal commencement of a marriage is said to be the groom's smoking of *rook kwa* (the "kindler of the stick"), which goes to the bride's mother, and a bull to her father. These customs the main payments, varying according to the wealth of the two parties and to other general level of Luo wealth in cattle at the time, but usually eight upwards. After this bride and groom live together for some time in the latter's *simbo*, and then the bride gets permission to return to her own home. The groom goes there with a heifer and a bull, and the feast of *Asawo* is held. This completes the customary twelve cattle of the bridewealth. Bride and groom then return

[1] Some mention of sexual sins would be required to discover how far the level of / segment within which murder is viewed in this way coincides with that within which widows of kinsmen may be inherited and customary gives to marriage payments. My own was not direct for the collection of such statistics, but my impression was rather such a coincidence in very vague, and it is certainly by non-consciously present in the minds of the Luo.

[2] Cf. Evans-Pritchard, *Some Aspects of Marriage and the Family among the Nuer*, pp. 3–10. Despite its importance among the Nuer, the obligation of *ghost marriage* is far from universal among Nilotic peoples. Among the Luo-speaking groups it is not practised by the Kenya Luo nor by the Alur nor, probably, the Acholi.

19:Wilson E-9 (ca. 1950) 1960
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183 goals which have been carefully weighed and assessed as to the possible supernatural and social consequences. The Joluo believe that a goal does not justify the means if the means require violence, unless all methods of arbitration, conciliation, appeal to authority, both temporal and supernatural, have been tried and proved to be unsuccessful or inadequate.

783 Violence requires cleansing—physical and spiritual cleans-
683 ing of the most exacting nature—to avoid the supernatural consequences (*chiru*) which violence may bring in its wake. One case has been recorded which contains an excellent description of the ceremonial and ritual cleansing thought to be essential after a murder. This particular murder was planned and executed by a group which, after years of thought and effort to resolve the conflict without violence, finally resorted [771] to murder. Obviously, with the coming of the European, other [394] factors were involved to escape detection for an act which [628] in the old days would have given the group high status within its own community and which would have created feuds or precipitated a war that ultimately would have been resolved by blood compensation or schism of the political unit and migration by the weakest group.

Violence which arises immediately and unpremeditatively from quarrels, drinking, infidelity, sex, marital tensions, or family differences, and which results in a death, is not regarded in the same way as predetermined action decided upon as a last resort. Ceremonial cleansing is still necessary but does not take the extreme form because these acts are regarded by the Luo as bringing consequences which affect the individual only, that is *kuer*, and not *chiru*, which affects the group, clan, or tribe as a whole. Fortunately British law makes a similar dis-
683 tinction: that between murder and manslaughter. It will be
673 found therefore that the majority of cases involving Joluo which have come before the courts of Kenya as murder cases are resolved and punished as cases of manslaughter. The Joluo do not, however, understand why many of those convicted un-

19:Wilson E-5 (ca. 1950) 1960
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for the land of manslaughter should be punished at all. They feel that a person who makes the mistake of killing in anger is or has been or will eventually be punished by the ancestors, God, the elements, by illness, bad luck, misfortune, or the like, in the inevitable nature of things.

It is believed that cold-blooded, premeditated murder brings chaos to the group and is therefore punished by the tribe or by the segment affected. The group or the individual who took what they regarded as this calculated risk was eventually banished from the tribe or if large and strong enough to dominate the political unit to which the deceased belonged could force his supporters, usually his segment of the clan, to break away and leave the area. Luo kinship describes all members of the clan in the same genealogical generation as brothers, fratricide, therefore, has a very wide range.

Luo clans occupy and are identified with a geographical area. The clan and the area it occupies are usually called after the eponym of the tribe. Those living within a clan or tribal area who are not members of the clan or tribe are regarded as squatters (*jodak*) with limited rights. They may be unrelated squatters, but most often are found to be affines of legitimate clan members. Murder committed by such persons invokes immediate counteraction on the part of those who belong to the land by virtue of descent, *jogwong*. Cattle could be taken by force, the culprit banished or killed, and/or a woman from that group married by a member of the dead man's minimal lineage, his *jokakwaro*, to raise seed unto the dead man's name. This woman would be regarded as the wife of the dead man, her children would placate his ghost as father (*wuoro*), the physical father would merely serve as genitor.

One major clan, *Kakia*, of a powerful tribe, the Seme of Central Nyanza, descended from a woman of this type—but then not exactly of this type: what happened was as follows. A *jodak*, living in the clan area of Seme, killed the son of an important elder of the tribe. He fled to his own tribal land to

19:Wilson E-5 (ca. 1950) 1960
FL:11 Loo FL:11

avoid the immediate consequences and as a result war broke out between the people of Sowa and the people of his tribe, Ugwuyo. After many years of intermittent and bitter warfare the elders of both tribes met to settle the dispute. Their solution was as follows: because the elder who lost his son did not have an unmarried son to take a woman of the killer's clan, and because the killer's minimal lineage did not have a suitable daughter to give in marriage, it was decided that the killer should marry the daughter of the deceased's father, and through her raise seed to the dead man. The killer, contrary to custom but as part of the settlement, was forced to live at the home of his bride and was subsequently adopted into the clan of the deceased. It is interesting, however, that the eponym of the clan which today traces descent from this couple is the bride, Kia, and not the killer or the deceased. It is, to my knowledge, the only clan in Loo which has a woman as an eponym, but then she was apparently regarded as a male by her contemporaries.

This background was given to provide the reader with some idea of the Johuo attitude to homicide. Deeply ingrained is the notion that life goes on after death on earth—that ancestors in the spirit world are able to influence the lives, conduct, fortunes, for good or evil, of their descendants. Ghosts are more likely to be benevolent if they can count numerous descendants on earth and extremely malevolent if life on earth was cut short by violence or unnatural death by war, accident, or suicide. The ghosts of the latter are believed to be more difficult to deal with than those of ordinary spirits of old men or women. The more descendants a ghost has, the higher its status in the afterworld, and therefore the greater its pleasure and benevolence.

The Johuo had developed several devices to deal with cases of homicide. A wife could be married in the name of a murdered youth to raise seed to his name, to placate his spirit and to continue his line for posterity. A young adolescent woman who died was deflowered by a stranger (*jokuoiny*)

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which is the infidelity of the spouse of the deceased, in the case of a child, by the adultery of its mother. Ritual cleansing of the members of the minor lineage is therefore necessary, as for incest.

I mentioned above a classical case of homicide which illustrates what the Jukun regard as a calculated risk of the consequences. It deserves fuller analysis.

Case No. 1.

This case involved a group of nine related men. Only one of them was convicted, and he eventually was acquitted on appeal through lack of corroborative evidence.

A quarrel began between members of two major clans of the same tribe over the appointment of an assistant chief. The clan from which the assistant chief was appointed—we shall call it Jokuth—is alleged to have taken advantage of the clan—which we shall call Jokuch—which was unsuccessful. The clans feuded in every way, over land, cattle grazing and so on, until the elders of Jokuch decided, as a warning in the ancestral way, that they should burn the hut of a leading elder of Jokuth. This was done. The assistant chief arrested a member of clan Jokuch, a person with whom he is alleged to have had a personal grievance, and this man was convicted of the burning and sentenced to a term of imprisonment. His sons fought hard and long to have him released on grounds of ill health and, when finally successful, took him home only to have him die shortly after. On his death bed, he made his sons swear to avenge his death.

Diviners and medicine men were consulted, and many methods were tried unsuccessfully for several years to bring clan Jokuth to its knees and to bring about the death of the assistant chief who had by now retired.

All was not well with the affairs of Jokuch clan. Each new catastrophe was taken as evidence of the malevolence of the ghost of the deceased because his death remained unavenged.

19:Wilson K-9 (ca. 1950) 1960
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Finally, in desperation, his sons and a group of his *pikakuoro* assembled the local division, *pikilo*, to choose an auspicious day for the killing of the ex-chief and to collect the animals and materials necessary for cleansing after the deed had been accomplished.

The ex-chief was found and stabbed to death at the place named by the *pikilo* and his body was hidden in a nearby river. It was found several days later, and a witness was found who alleged that he came upon the group on the day of the murder in the act of disposing of the body.

Those who had had actual physical contact with the blood of the murdered man were cleansed as soon as they arrived home by the leading *pikilo* of the clan. He used a grey ash from burning the sacred *boandwar* vine. The minimal lineage, *pikakuoro*, assembled at the village of the senior son, who was the head of the lineage segment, and who had struck the fatal blow. There the following cleansing ritual was performed: at about two o'clock the following afternoon, a black sheep and red chicken were slaughtered by the head of the lineage. The sheep and chicken were first prepared by the *pikilo*, who placed his medicines in the mouth of the sheep and of the chicken before the sacrifice. The *pikilo* cut strips of skin from the animal and wrapped them around the spear and knives used in the murder. The spear had to be destroyed at sundown because the victim was related to the spear clan of the tribe. The meat was divided on the lineage principle and consumed ceremonially. The meat of the chicken was eaten only by those who actually struck blows.

The purpose of these sacrifices was stated by the *pikilo* to "keep the spirit of the murdered man from doing evil to the clan." It also cleansed the bodies of those who drew blood so that they could now eat with their families and once more participate in the activities of the village and clan.

After the meat was eaten, those present held a meeting to decide which old woman should act as a wife to the ghost of

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ignorant of the previous night's events, notified the police. Thus the story was out.

The Joluo were concerned that the youth should have been arrested and charged with murder. He was acquitted after trial on the grounds of self-defense, but the opinion remained that he should have had praise and not have suffered the indignity of being held in custody which, to the unsophisticated, was punishment and prison.

The Joluo discipline wives and children, when it is thought necessary, by beating and kicking. One or two cases each year come to the courts as a result of excessive force resulting in the death of a victim of discipline. Out of 46 cases between 1949 and 1954, 10 were of this type.

The largest number of murder cases today arises from drunken quarrels during beer parties. Native beer does not have a high alcoholic content, but a beer-drink often begins at mid-morning and continues well into the night and, on special occasions, until the next day. The quantity consumed therefore frequently produces an acute state of drunkenness. Of the 46 cases, no fewer than 12 can be classified as the result of excessive beer drinking. These cases, without exception, were finally treated by the courts as manslaughter.

Family quarrels, often over bride-wealth payments, account for a few cases every year. A typical case of this type is as follows.

Case No. 3.

In 1949, the Accused caught his wife in the act of adultery with an acquaintance. The wife returned to her father's village, as is the custom in such cases, and made several efforts to elope with her lover. On each occasion, her brothers forcefully restrained her and threatened her lover with a severe beating or death, should he attempt to elope with their sister. After several weeks of argument and numerous meetings of the eld-

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159 ers of the clans involved in the case, the husband went to the
• 628 village of his wife and took ten head of cattle by force from
684 her father's herd. This action is approved in customary law after the elders have met and discussed the matter and are unable to resolve it by any other method.

Naturally the brothers of the girl were extremely angry that their sister should have behaved in this way that meant the loss of animals which they, no doubt, had planned to use for their own bride-wealth. The girl remained unrepentant and troublesome. She stated that she was determined to return to her former husband's village to collect her clothes, and that she would leave her brothers and her former husband in order to join her lover. Her brothers followed her to the village of her former husband and there began to quarrel. Her former husband joined the group, and the three decided to teach this woman a lesson. They beat her with sticks until she was dead.

[682] The court took a lenient view and decided that their intention was not to kill the woman but merely to discipline her, and each of the Accused was sentenced to six months hard labor for manslaughter.

The next case also arose out of bride-wealth.

Case No. 4.

159 In 1949, a woman left her husband to live with her lover.
684 Her husband tried through indigenous and legal channels to
583 get his bride-wealth returned. The woman's father, however, had used the animals and could not return them, although he was sympathetic. The husband, therefore, was left with only one course, to demand the return of his wife. To this end, he went to the village of her lover and threatened him. They began to quarrel and to fight. Each was armed, the lover with a spear and the Accused, the husband, with a panga and a knife. The lover was killed and the husband charged with murder.

159 In this case, the court decided that this was manslaughter,
682